

EXHIBIT 10

**KITCHEN WINNERS NY INC., WT AL. vs ROCK FINTEK LLC, ET AL.
Hershey Weiner on 11/15/2023**

3 KITCHEN WINNERS NY INC.,

4 Plaintiff,
v.

ROCK FINTEK LLC,

Defendant.

Claim Action No.
22-cv-05276

ROCK FINTEK LLC,

Counterclaim and Third-Party Plaintiff

v.

KITCHEN WINNERS NY INC.,

Counterclaim Defendant,

and

14 ADORAMA INC., HERSHEY WEINER,
15 JOSEPH MENDLOWITZ, JNS CAPITAL
HOLDINGS LLC, and JOEL STERN,

Third-Party Defendants.

CONTINUED DEPOSITION OF

Wednesday, November 15, 2023

22

23

24

HUSEBY GLOBAL LITIGATION
800-333-2082

25 Job No. 30129

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2	2
3 NOVEMBER 15, 2023	3 APPEARANCES CONTINUED via ZOOM REMOTE:
4	4
5 EXAMINATION BEFORE TRIAL, AFTERNOON SESSION, of	5
6 HERSHEY WEINER, THIRD-PARTY DEFENDANT, taken pursuant	6 LIPSIUS-BENHAIM LAW, LLP.
7 to Notice of Examination via Zoom Teleconferencing,	BY: ALEXANDER SPERBER, ESQ.
8 continuing at 1:05 p.m., on the above date, before	80-02 Kew Gardens Road
9 Christine Greenaway, Registered Professional Reporter	Suite 1030
10 and Notary Public for the State of New York.	Kew Gardens, NY 11415
11	212.981.8449.
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14	Adorama Inc., Hershey Weiner,
15	and Joseph Mendlowitz
16	12
17	13
18	14 THE LAW OFFICE OF AVRAM E. FRISCH LLC
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	JNS Capital Holdings LLC and
	Joel Stern
	20
	21
	ALSO PRESENT via ZOOM REMOTE:
	22
	BRADLEY GILLING
	23
	THOMAS KATO
	24
	25 - - -
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2	2
3 APPEARANCES via ZOOM REMOTE:	3 S T I P U L A T I O N S
4	4
5	5 IT IS HEREBY STIPULATED AND AGREED by and amongst
6 LIPSIUS-BENHAIM LAW, LLP.	6 the parties hereto that all rights provided by the
BY: ALEXANDER SPERBER, ESQ.	7 Federal Rules of Civil Procedure, including the right
8 80-02 Kew Gardens Road	8 to object to any question, except as to the form
9 Suite 1030	9 thereof, are reserved; and, in addition, the failure
10 Kew Gardens, NY 11415	10 to object to any question or motion to strike
11 212.981.8449.	11 testimony at this examination shall not be a bar or
12	12 waiver to make such motion at, and is reserved for,
13	13 the trial of this action;
14 POLLACK SOLONON DUFFY LLP.	14
BY: PHILLIP RAKHUNOV, ESQ.	15 IT IS FURTHER STIPULATED AND AGREED that this
LAUREN RIDDLE, ESQ.	16 examination may be sworn to by the witness being
31 St. James Avenue	17 examined before a Notary Public other than the Notary
Suite 940	18 Public before whom this examination was begun;
Boston, MA 02116	19
617.960.3118	20 IT IS FURTHER STIPULATED AND AGREED that the
PRakhunov@psdfirm.com	21 filing and certification of the original of this
LRiddle@psdfirm.com.	22 examination are waived.
Counsel for Rock Fintek,	23
Defendant/Third-Party Plaintiff	24
20	25
21	
22	
23	
24	
25	

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4			4		
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1	(HERSHEY WEINER - VOL. 1, PM SESSION)		1	(HERSHEY WEINER - VOL. 1, PM SESSION)	
2			2	A F T E R N O O N S E S S I O N	
3	E X H I B I T S		3	- - -	
4			4	MR. RAKHUNOV: Good afternoon,	
5	NUMBER/IDENTIFICATION	PAGE	5	Mr. Weiner. I just want to put on the	
6	DEFENDANT'S		6	record that we were -- at around 11:40	
7	(Exhibits 1-5 marked in AM Session.)		7	a.m. as we were in the middle of the	
8	Exhibit 6.....	124	8	deposition, it seems that the court	
9	Gmail dated 2/19/21; MedCare Major Issue		9	reporter had a technical issue and	
10			10	dropped off due to no fault of anyone	
11	Exhibit 7.....	128	11	in this deposition.	
12	Purchase and Sale Agreement; JNS/En Corp		12	And it's now 1:09 p.m. and we were	
13			13	able to get a replacement court reporter	
14	Exhibit 8.....	131	14	and we are resuming the deposition.	
15	Pick Up Report		15	I think before the court reporter	
16			16	dropped off, we might have had a couple	
17	Exhibit 9.....	133	17	of minutes of testimony and --	
18	E-mail dated 4/23/21 with photo attachments		18	I'm sorry, Christine, you're still	
19			19	there; right?	
20	Exhibit 10.....	139	20	(Madame court reporter responded in	
21	Gmail dated 6/17/21d with photos of		21	the affirmative.)	
22	containers attached		22	MR. RAKHUNOV: Okay. It looked	
23			23	almost like you were frozen, but I just	
24	Exhibit 11.....	154	24	may now be paranoid.	
25	Packing List dated 2021/4/24 from		25	- - -	
	Dongguan Grinvald Technology Co., Ltd.				

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 EXAMINATION CONTINUED	2 Q. Okay, that's fair.
3 BY MR. RAKHUNOV:	3 Did she tell you why they had boxes that
4 Q. So before we dropped off, I believe I asked	4 said "protection" on them?
5 you a question about your understanding of the	5 A. As I previously said, that she said that she
6 difference between protection and examination gloves,	6 ran out of the examination boxes and they used
7 assuming they weren't mislabeled, and I believe you	7 protection. I didn't ask more than -- further than
8 explained that you understood examination gloves could	8 that, if she's producing or not. To my recollection.
9 be used in surgical settings and protection gloves	9 Q. And so whatever explanation Anna gave to
10 could be used in other hospital settings.	10 you, you were satisfied with that explanation?
11 But I don't want to put words in your mouth,	11 A. Yes.
12 so could you just repeat your answer about that topic?	12 MR. RAKHUNOV: Let me put an
13 A. I said that to my knowledge protection	13 exhibit -- So, Christine, you don't have
14 gloves can be used in facilities, and examination	14 the previously marked exhibits, I
15 gloves can be used in ICU as well.	15 assume?
16 Q. But they are different -- again, assuming	16 (Madame court reporter responds in
17 proper labeling -- they are different gloves; correct?	17 the negative.)
18 A. Assuming yes, to my knowledge.	18 MR. RAKHUNOV: Okay, so this will
19 Q. Okay. So do you recall at some point in	19 be Exhibit 5 in the deposition and
20 early 2021, you received gloves from MedCare that were	20 we'll, as we said before, we'll send a
21 mislabeled?	21 full set once we are done.
22 A. Yes.	22 The document itself has a number
23 Q. Okay. And you raised that issue with	23 four in the title and it's Bates
24 MedCare; correct?	24 numbered AKW-003061, a document that
25 A. Yes.	25 your attorney produced in this case.
Page 115	Page 117
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Q. Do you remember what came from that issue?	2 Let me know once you have it open,
3 What happened when you raised it with MedCare?	3 Mr. Weiner.
4 A. She said it's the same thing. The gloves	4 THE WITNESS: Yes.
5 the same and the box was -- they couldn't get fast	5 MR. RAKHUNOV: Okay.
6 enough boxes due to COVID -- couldn't get fast enough	6 BY MR. RAKHUNOV:
7 new boxes, and the warehouse packed this box and she	7 Q. So do you see you write for the subject
8 gave me somehow a letter, I think, that I produced in	8 matter "MedCare major issue" on February 18, 2021?
9 the production that it's the same quality, 510k	9 Do you see that?
10 examination.	10 A. Yes.
11 Q. And when you say "a letter," did she -- When	11 Q. And is this the issue you just were talking
12 you say "she" you mean Anna Grimvald; correct?	12 about?
13 A. Correct.	13 A. I can assume so.
14 Q. And did Miss Grimvald produce any testing	14 Q. Okay. And there's a reference here to a
15 reports to you or any other documentation to	15 container number.
16 substantiate her assertion that these were the same	16 Do you know whether any other containers,
17 gloves, but simply in different labeled boxes?	17 other than the one referenced in this e-mail, came
18 A. I would have to check. I don't recall.	18 with boxes that had gloves labeled "protection" on
19 Q. Do you know if MedCare had actually been	19 them that you purchased from MedCare?
20 producing protection gloves at some point?	20 A. I know it was more than one container, but
21 A. I don't know and I don't -- I wasn't	21 I don't know container numbers and I didn't even know
22 involved.	22 this container number.
23 Q. So you don't know why they had protection	23 Q. No, I understand that you don't have the
24 boxes then?	24 container numbers memorized.
25 A. I didn't work for Anna Grimvald.	25 But as you sit here today, do you have any

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 reason to believe when you wrote the container number	2 e-mail?
3 back in February 2021 you weren't accurate?	3 A. I don't know. I don't recall. I have to go
4 A. Yes, it could be.	4 check. In February.
5 Q. Okay. And you enclosed some photographs	5 Q. Understood.
6 of the boxes that say Synthetic Nitrile Protection	6 Do you know who some of your customers were
7 Gloves; correct?	7 in February?
8 A. I don't see no photos. You have photos	8 A. I had a lot of customers in February. It
9 here?	9 might have been Mr. Kline or I have -- oh, I had
10 Q. Yeah. The photos are attached and you can	10 another customer, Sea Oyster (ph). He sold for Cod
11 see little thumb images on the first page, but the	11 Fisher, Sea Oyster. I forgot customers. I had Cod
12 last page has the actual attachments -- well, the last	12 Fisher and Sea Oyster customers.
13 two pages.	13 Q. And do you remember those customers throwing
14 A. Yes, I see it there.	14 the merchandise back at you when they realized that
15 Q. Okay. And you wrote to Miss Grimvald and	15 the boxes were labeled "protection" and not
16 under point 1, "It does not say exam on the box, this	16 "examination"?
17 is unacceptable."	17 A. Actually in the end, they all took it.
18 Do you see that?	18 Q. In the end they all took it?
19 A. It does not say exam on the box and it is	19 A. Yes.
20 unacceptable, yes.	20 Q. Do you know what usage those gloves they
21 Q. Okay. And why did you say that this is	21 were buying for?
22 unacceptable to Miss Grimvald?	22 A. Yes, Sea Oyster went to work with the
23 A. Because it doesn't say "examination."	23 hospital in Manhattan. He had a contract with the
24 Q. And you weren't buying them for your own	24 government. The government has hospitals in Manhattan
25 use; correct?	25 and he had the biggest contracts in New York.
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 You were buying them to sell to other end	2 Q. Okay. And do you have communications by
3 users; correct?	3 e-mail with this client of yours regarding this issue
4 A. I would have to check on February because on	4 with protection labels?
5 February I didn't buy at all. I sold, as I told you,	5 A. I would tell Alex to check. I don't know
6 when it went up in China on the boat.	6 how to search it, but if Alex wants to search again, I
7 Q. So are you saying you didn't buy these	7 think we can do the search. This I don't know.
8 gloves?	8 I think it was a verbally on the phone, it
9 A. I didn't say that. I said that it was	9 settled.
10 specific assigned to a customer. In February, I did	10 Q. What do you mean "it settled"?
11 not take possession of the containers. It was	11 A. He didn't want to give me the merchandise.
12 assigned to customer.	12 I wanted to take back the merchandise.
13 Q. So you were buying them to be immediately	13 Q. And do you see in the last line you write,
14 resold to a customer; correct?	14 "If I would have known this I wouldn't sell it to a
15 A. Yes.	15 government account, I would give it to someone that
16 Q. And, in fact, if you look at the line that	16 doesn't look"?
17 starts with "These two issues are major, I don't know	17 Do you see that?
18 how to solve this, my customer is throwing me back the	18 A. Which line?
19 merchandise, I don't have where to sell it now"; do	19 Q. The last line.
20 you see that sentence?	20 A. I wouldn't sell it to government. Yeah,
21 A. Which line?	21 that's Sea Oyster. I would give it to somebody that
22 Q. So the first sentence under number 2.	22 doesn't look, yeah.
23 A. Yes, this two issues major issue, I don't	23 Q. What do you mean when you wrote, "I would
24 know how -- yes, to solve this, yes.	24 give it to someone that doesn't look"?
25 Q. Who is the customer referenced in this	25 A. My expression was not perfect. I'm saying

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 customers that don't care. Like 2020 and Prestige,	2 Q. And it's your testimony that when you wrote
3 they didn't care.	3 that you would give it to someone that doesn't look,
4 Q. Why didn't they care?	4 that the word "look" actually means care?
5 A. They sold it on the market. They didn't	5 A. Yeah, they have clients that they don't need
6 care if it says "protection" or "examination."	6 to be -- say "examination." They didn't care.
7 I don't know, you would have to ask them.	7 Q. You weren't saying that you would give it to
8 They didn't care.	8 someone who just doesn't pay attention?
9 Q. Rock Fintek cared, though; right?	9 A. No. We pay attention to everybody.
10 A. I don't know because they took from me three	10 Q. Do you recall --
11 loads and they didn't care.	11 MR. RAKHUNOV: And again, let's
12 Q. So again, the three loads --	12 just -- I will just put another exhibit
13 A. So I don't know.	13 into the chat box. Just one second.
14 Q. Okay. And these loads that you're talking	14 (Pause).
15 about were before you entered into the big contract	15 (Defendant's Exhibit 6 marked for
16 with them?	16 identification.)
17 A. It says February.	17 BY MR. RAKHUNOV:
18 Did I go into the contract with them in	18 Q. This is going to be six and it's a
19 February?	19 continuation of this e-mail chain we just looked at.
20 Q. Well, I can show you the contract and I will	20 It begins with Bates No. AKW-3067.
21 just represent to you for now that it's dated in April	21 A. Yeah.
22 of 2021.	22 Q. Okay. So you see you follow -- at the
23 But my question is --	23 bottom of Page 1, you follow up with Anna on
24 A. February -- one second -- February, March,	24 February 19th and you write: "Anna, please let me
25 April, two months later.	25 know which container numbers have this same problem.
Page 123	Page 125
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Q. Right. So my question is, did you sell	2 I need to know exactly very urgently."
3 gloves from this container to Rock Fintek?	3 Do you see that?
4 A. No, not to my knowledge.	4 A. Yeah.
5 Q. Okay.	5 Q. So you did view this labeling issue as a
6 A. Not to my knowledge. Clearly no.	6 problem; correct?
7 Q. But you have testified that you gave, at	7 A. Yes, before she gave me the letter.
8 least before the contract was executed, protection	8 Q. Okay. And look at Miss Grimvald's response.
9 gloves to Rock Fintek, based on what Arik told you;	9 Is this the letter you're referring to or is
10 correct?	10 there something else that you recall being provided?
11 MR. SPERBER: Objection to form.	11 A. Where do you see her response?
12 A. Yes, it was within two weeks from before the	12 Q. So do you see at the very top of this
13 contract. So if the contract was in April, it should	13 document?
14 have been in March somewhere, end of March.	14 A. Yeah, "Dear All"?
15 I don't know which day the contract was but	15 Q. Yep.
16 if it was in April 1, this would have been March 10 --	16 A. Can you read it out loud to me, please.
17 or March 20.	17 Q. Sure. "Bear factory" -- What is Bear
18 Q. Okay. So --	18 factory? Any idea what that is?
19 A. You're talking before February 8th and it	19 A. No.
20 was already unloaded and delivered to somebody's	20 Q. Okay. "Anhui is still using these boxes
21 warehouse.	21 until the middle of March. There are three containers
22 Q. Did you sell gloves to -- I mean did these	22 being picked up today. Two you have received
23 clients in February buy containers at a time or, you	23 inspection and one is inspected today before loading.
24 know, what kind of quantities are you selling?	24 These 90,000 boxes will be with this" -- I think it's
25 A. Container.	25 supposed to say "packaging."

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Do you see that?	2 A. I don't recall putting container numbers on
3 A. Yes.	3 my invoices.
4 Q. So literally 90,000 boxes, do you understand	4 Q. Okay. Do you recall -- You said you sat
5 that to refer to the big brown boxes or the tissue	5 through Mr. Stern's deposition.
6 boxes?	6 Do you recall if he saw container numbers on
7 A. No, she wrote always "tissue boxes."	7 his invoices?
8 Q. Okay. And there's 100 gloves in each box;	8 A. I don't think it was on his invoices.
9 correct?	9 What I remember -- what I recall, it was
10 A. Yes.	10 Bill of Lading. I assigned a Bill of Lading to the
11 Q. So how many gloves -- if you can just do	11 customer.
12 the math -- how many gloves are we talking about in	12 Q. And I guess speaking of Joel Stern, I'm
13 90,000 boxes?	13 going to ask you one question.
14 A. About 9,000 cases.	14 MR. RAKHUNOV: Let me put Exhibit 7
15 Q. So 9 million gloves?	15 into the chat box.
16 MR. SPERBER: I don't think that's	16 (Defendant's Exhibit 7 marked for
17 right.	17 identification.)
18 A. I don't think so.	18 BY MR. RAKHUNOV:
19 BY MR. RAKHUNOV:	19 Q. So this is a document also produced by your
20 Q. Let's see. If we're taking 100 gloves a	20 counsel and it's an e-mail on January 12, 2021 from
21 box, average?	21 you to Mendel Banon attaching a document entitled
22 A. It could be. I don't know. 9,000 boxes.	22 SPA-JNS Services Corp. 300K MedCare.
23 Q. You identified the container number very	23 And you write, "Please talk to me about it."
24 specifically in your e-mail.	24 Take a look at the document and I'm going to
25 Were you able to track where those	25 tell you it looks like a Sales and Purchase Agreement
Page 127	Page 129
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 containers actually went, in terms of your clients?	2 between JNS Services Corp. and the seller titled EN
3 A. I don't recall exactly but it must have gone	3 Corp.
4 to 2020 -- M2020 and Prestige or a client, and this	4 Do you recall this document and the e-mail
5 Fisher, Cod Fisher.	5 to which it's attached?
6 Q. And it ultimately made its way back to Rock	6 A. This is the company in Texas I told you
7 Fintek when you needed that inventory; correct?	7 that, umm, that umm, also had goods. I don't know,
8 A. No -- yeah, before the contract, it	8 maybe, umm, Janice gave it to me to tell me that
9 ultimately made it back, yeah.	9 they're offering also goods.
10 Q. So we're talking about 9,000 boxes of	10 Q. So this is another company that was selling
11 gloves.	11 MedCare gloves?
12 Pretty small amount of the ultimate contract	12 A. Yes.
13 amount; correct? Compared to the ultimate contract?	13 Q. And do you know why you asked Mendel Banon
14 A. Correct.	14 to talk to you about it?
15 Q. Yeah. Generally speaking, did you keep	15 A. Yeah, because look at the unit price is
16 careful recordkeeping as to what container numbers	16 \$8.30 and I couldn't give that price. So I wanted to
17 were sold to what client of yours?	17 discuss it with him, how come the other person could
18 A. I have to check but I think that -- at that	18 give such price. My costs was above that.
19 time, I gave the Bill of Ladings to certain clients.	19 Q. Did you discuss it with him?
20 I didn't keep records.	20 A. I assume.
21 If I put container number it's most probably	21 Q. Do you remember why they were able to get a
22 because my client told me it's this and this container	22 price like that?
23 number.	23 A. No.
24 Q. Okay. So you did not put container numbers	24 Q. Did you bring this up with MedCare or with
25 on your invoices; correct?	25 the Texas company?

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 A. I never spoke to the Texas company. As I	2 shipments. We can count them up. But my question is
3 told you in the beginning, that I knew of them but I	3 very simple.
4 never spoke to them.	4 Do you believe that this spreadsheet is a
5 Q. Okay. Did you ever do any business -- So	5 fair representation of all of the glove shipments that
6 you never did any business with the Texas company;	6 Rock Fintek picked up from Kitchen Winners during the
7 correct?	7 life of the contract?
8 A. No. Right now I remember also there was	8 A. No.
9 another guy, Fine Line, I think is the company name,	9 Q. You don't believe that it's a fair
10 that also had MedCare. There was quite a few people	10 representation. Why?
11 that had MedCare.	11 A. My records have that I shipped them 1.703
12 Q. Do you know, as you sit here today, approxi-	12 something, and they came back and they said that --
13 mately how many shipments of gloves Rock Fintek picked	13 dismissing him, he left, so that's why they gave me
14 up during the life of the contract from you?	14 the Bill of Lading.
15 A. I spoke to you about that before. I think	15 I started asking somebody to put it together
16 in the 50s.	16 for me so we can see how the difference is.
17 Q. Great. And do you remember providing an	17 Q. So you're claiming you actually delivered
18 Excel spreadsheet called Pick Up Report at some point	18 more gloves than this document --
19 that had a summary of all the shipments with an image	19 A. Again, let's clarify. It was picked up,
20 of a Bill of Lading attached next to each one?	20 more gloves was picked up. 1.703. I don't have it
21 Does that sound familiar?	21 pinned down to the exact number.
22 A. It could be.	22 Q. Whether it was 1.6 something or 1.7
23 Q. Okay. So this will be a challenge but I'm	23 something, you would agree with me that's more than
24 going to put an Excel document into the chat box.	24 the amount called for by the contract; correct?
25 Hopefully you're able to open it on your iPad.	25 A. Correct. That's why I said "picked up."
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 A. Is it there already?	2 Q. Understood. All right. You can close that.
3 Q. Not yet. Hold on. It's giving me -- it	3 MR. RAKHUNOV: That was Exhibit 8,
4 doesn't like it that I have it open. (Pause)	4 by the way.
5 All right. I just sent it. It's -- it's a	5 Now we're going to go to Exhibit 9.
6 little bit large but hopefully you can open it.	6 (Defendant's Exhibit 9 marked for
7 A. Yes.	7 identification.)
8 (Defendant's Exhibit 8 marked for	8 BY MR. RAKHUNOV:
9 identification.)	9 Q. It should be in the chat box. It's a
10 BY MR. RAKHUNOV:	10 document that was -- you know, I don't recall if it
11 Q. Do you remember creating this document?	11 was produced by Mr. Stern or by your counsel, but it
12 A. No, I wouldn't be able to create this. I	12 doesn't have a Bates No.
13 had to ask somebody to come and create and help me to	13 It was produced in this case and it's an
14 create this because I would never been able to create	14 April 23, 2021 e-mail from someone named Patricia
15 such a thing.	15 Sellino, whose signature box associates her with
16 Q. Do you know who created this document?	16 CaraVan, Inc.
17 A. I don't recall.	17 Do you have it downloaded?
18 Q. You don't have any reason to dispute that	18 A. Yes.
19 this came from Kitchen Winners?	19 Q. Okay. Do you know what CaraVan, Inc. is?
20 A. I don't know. It could be that it was	20 A. No.
21 gathered information that came from Rock Fintek, they	21 Q. It's not an entity that you ever dealt with?
22 gave me, because we had started having disputes of the	22 A. Not that I recall.
23 quantity.	23 Q. Okay. Do you know why Miss Sellino is
24 Q. And I will represent to you that there are	24 e-mailing you and cc'ing a number of other people
25 59 -- yeah, 58 entries, I believe, containing various	25 concerning a work order for pulling gloves and trying

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Page 134	Page 136
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 to find a photograph of a certain box? Any idea?	2 there's a photograph included in the e-mail.
3 A. No idea. I never dealt with this. I don't	3 And then you respond that you're looking for
4 know who this company is. I don't know.	4 something different.
5 Q. All right. Well, go to the last page and	5 And then do you see you then write, "Is it
6 there's an April 23rd e-mail from you where you write:	6 possible to open one box per container to see if it's
7 "Hi, Patricia. I need your help. See attached. The	7 the same?"
8 FDA is asking for pictures of this particular box,	8 Do you see that you wrote that?
9 more close-ups, so they can read all information on	9 A. Where?
10 the box. Please search in the warehouse for the same	10 Q. In this second line of your April 23rd, 3:26
11 box as this and take a good picture of it and send it	11 p.m. e-mail.
12 to me. Thanks."	12 A. I don't recall, but could you...
13 Do you remember writing that?	13 Q. Okay. And when you say "one box per
14 A. Yes.	14 container," do you know if you're referring again to
15 Q. Okay. So does that refresh your	15 a tissue box or to a carton?
16 recollection as to what you were asking Miss Sellino	16 A. Carton.
17 to do here?	17 Q. Okay. You're looking not to see what the
18 A. Umm, I remember now this was -- I called	18 glove feels or looks like but what the packaging looks
19 Stern but he couldn't take care of it and he asked me	19 like; correct? In this e-mail.
20 to contact his warehouse -- I think this was his	20 A. I don't recall.
21 warehouse, I assume -- putting this collection	21 Q. Okay. But then you write: "Each container
22 together. I needed a picture from the -- from the --	22 is one type of box. There are no two different boxes
23 from a certain shipment or something.	23 in a container. So from all JNS goods, we assume
24 Q. Okay. What were you trying to accomplish	24 there should be one container at least with this box."
25 with the FDA when they were asking for pictures of	25 Do you see that? You wrote that? Did I
Page 135	Page 137
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 that particular box?	2 read that correctly?
3 A. I didn't try to accomplish nothing.	3 A. One second. One second. Where is that?
4 FDA sometimes let's do a container based on	4 Q. The next line down, starting this third and
5 -- the entry was done on my name, Kitchen Winners, it	5 fourth line in your 3:26 p.m. e-mail.
6 was done through our company, so the entity would	6 A. Yes.
7 clear customs.	7 Q. Okay. So did I read that correctly?
8 So what happened is that sometime because	8 A. Yes.
9 you have a good record or something, especially when	9 Q. Okay. So were you being accurate when you
10 it came to COVID, the FDA lets you pick up the	10 wrote this statement that "each container is one type
11 container and after that they can ask you please send	11 of box; there are no two different boxes in a
12 us a picture and satisfy that it's to code what they	12 container"?
13 -- what was, umm -- I don't know how to pronounce	13 A. Umm, I don't know. That's -- that was --
14 it -- but what was given to them.	14 again, I have to refresh my memory. But I don't know
15 Q. And --	15 exactly what was the situation and what was the thing.
16 A. Let's assume, umm, you bring in an item and	16 I don't know what happened.
17 you gave it a classification. You give it a	17 Q. And this was like April 2021, middle of a
18 classification, as I understand. And you give a	18 pandemic, more than two-and-a-half years ago; correct?
19 classification and based on that you pay a duty.	19 Or about two-and-a-half years ago; right? A little
20 And so the FDA can come back within a	20 more.
21 certain time and ask you to, if they didn't -- they	21 A. Okay.
22 didn't open up the container or they didn't -- they	22 Q. Okay? So when you wrote this in April of
23 can ask for a box, for example.	23 2021, you know, is it safe to assume that you would
24 Q. Okay. So then on April 23rd, Miss Sellino	24 want to be accurate when you wrote and made this
25 writes: "Hershey, this is the best we can do." And	25 statement?

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Page 138	Page 140
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 A. No, it doesn't -- it's not -- I was looking	2 little and it's in the timeline, but I'm trying to be
3 for something else and she didn't provide me that so I	3 as efficient about this as possible.
4 was trying to figure out what the issue is.	4 I placed before you a document that begins
5 Q. You were trying to help her look in the	5 with Bates No. AKW-4204. It's an e-mail from Jimmy
6 right place; correct?	6 Esparza at md3pl.com to you.
7 A. I don't think so. I was trying most to	7 It says: "Hi, Joseph. Please see pictures
8 figure out what the issue is.	8 below for container #CAIU965838. Jimmy."
9 Q. Okay. But you're not -- you're just telling	9 A. Yeah.
10 her here to assume that each container only has one	10 Q. Do you have it open now?
11 type of box, and that there are not two different	11 A. Yes.
12 boxes in a container?	12 Q. Okay. So who is Jimmy Esparza?
13 You wrote that here; right?	13 A. He worked for 3pl.
14 A. Okay.	14 Q. And that's your logistics provider; correct?
15 Q. Okay. So were you being untruthful when you	15 A. Yes.
16 wrote this to her in April of 2021?	16 Q. And Rock Fintek's logistics provider of
17 A. I don't know if I was untruthful. I don't	17 truck drivers would pick boxes up from that location;
18 remember exactly.	18 correct?
19 I remember that the FDA needed a box and I	19 A. Correct.
20 gave them a box and they was questioning another box.	20 Q. And tell me if I'm wrong on this.
21 I don't know exactly what ended up happening. I don't	21 The truck would pull up to the warehouse and
22 remember exact detail.	22 MD 3PL workers would load pallets into the Rock Fintek
23 Q. Okay. And you're having her look at	23 hired trucks and then they would go off to their own
24 multiple containers; correct?	24 destinations; correct?
25 A. I had her look in two or three containers.	25 A. Correct.
Page 139	Page 141
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Q. And again, here you're just saying because	2 Q. And Rock Fintek's --
3 all of the containers -- well, because all of the	3 A. Sorry, sorry. One second. Can you repeat
4 boxes and any given container are the same, you just	4 again?
5 need to find the one that has this box in it; right?	5 Q. Sure. The trucks would, you know, pull up
6 A. I don't -- again, I don't understand your	6 to the MD 3PL locations, MD 3PL employees would load
7 question.	7 them, and then the trucks would leave to go wherever
8 Q. I'm just trying to understand what you meant	8 they need to go; is that accurate?
9 when you wrote here that each container is one type of	9 A. To a certain extent.
10 box, there are no two different boxes in a container,	10 Q. Okay. Is there something you want to add or
11 so from all JNS goods, we assume there should be one	11 change to what I said?
12 container at least with this box.	12 A. It wasn't like this exactly but, okay, let's
13 A. What I understand is that I asked her that	13 go on.
14 the container should be the same. So she should give	14 Q. Okay. Well, I -- look again, I don't -- I
15 me the pictures, what I asked for.	15 do want it to be accurate. So what -- you know, what
16 Q. So you would agree with me then that the	16 would be different?
17 boxes in any given container, from your understanding	17 A. Rock Fintek's truck would come every morning
18 in April of 2021, should be the same?	18 and start staying there nightly. There was no money.
19 A. My understanding. My recollection.	19 There was no communication. They started sitting and
20 MR. RAKHUNOV: I guess that was	20 everybody said -- It's a long conversation.
21 Exhibit 9. The next one will be 10.	21 This was a drama. All day, every day, a
22 (Defendant's Exhibit 10 marked for	22 drama. I had to call Arik and Arik Maimon was not up
23 identification.)	23 till 12:00. 12:00 started the whole negotiation.
24 BY MR. RAKHUNOV:	24 This was a whole -- a whole game, you know.
25 Q. I placed -- I know we're jumping around a	25 I can't get into this whole game because I want to

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Page 142	Page 144
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 keep it as clean as possible.	2 A. Yes.
3 So for now at the moment, let's hear your	3 Q. Do you know whose hand that is?
4 question.	4 A. No.
5 Q. Okay. I think I understand where you're	5 Q. That's not you?
6 going and if we have time, maybe I will ask you about	6 A. Let me check my hand.
7 that --	7 Q. Haha. This is three years ago.
8 A. The main thing is, I don't think -- let's	8 You don't know who that is?
9 focus what you want. And if it's going to come up, I	9 A. No.
10 just don't want it to be straight -- this was a whole	10 Q. Do you know who took these pictures?
11 fiasco. Every morning and every afternoon and every	11 A. What?
12 day there was a whole conversation back and forth.	12 Q. Do you know who took these pictures?
13 Give me credit. Give me credit.	13 A. No.
14 It just wasn't -- a normal thing in the	14 Q. If you go back up to the first page of
15 warehouse, you come to pick up, you need to make an	15 the document, the e-mail that's forwarded to you by
16 appointment 48 hours before. And this was not done	16 Mr. Esperaza is someone named JasonWynn@hotmail.com.
17 and the merchandise gets staged regularly and it's	17 Do you know who that is?
18 prepared and everything. And this was not done ever,	18 A. Jason -- one second. Jason -- Where?
19 ever, ever with Rock Fintek.	19 Q. Do you see in the middle of the first page?
20 Q. Okay. I understand. And I understand why	20 A. No, I don't know who that is.
21 you wanted to adjust your answer and I appreciate	21 Q. Okay. We can probably figure it out though.
22 that. And you are right, my question was a little	22 We'll go ask MD 3PL.
23 different.	23 So do you know if these pictures are being
24 So taking into account what you just said	24 taken inside the MD 3PL warehouse?
25 about, you know, the timing and, you know, issues you	25 A. I don't know. You should ask MD 3PL.
Page 143	Page 145
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 had with Rock Fintek, which I'm sure they don't --	2 Q. Yeah, we've tried.
3 they would have a different view of it, but my	3 If you go to Page 6 of the document.
4 question is that the trucks were loaded by MD 3PL	4 A. Page 6?
5 employees once whatever the timing issues were	5 Q. Yeah, Page 6.
6 resolved for any given shipment; correct?	6 Do you see the photograph of a pallet in the
7 A. Yeah, not me.	7 foreground and then other pallets in the background
8 Q. Okay. And not -- let's assume that one	8 that are shrink wrapped and those pallets have a
9 given shipment was being picked up by Demarco Trucking	9 printed out piece of paper.
10 and it would not be a Demarco truck driver loading the	10 The one in the foreground says Kitchen
11 pallets, okay; is that fair?	11 Winners. It has a long number on it. And then it
12 A. I'm not sure. I don't know.	12 says Nitrile Examination Gloves Size XL.
13 Q. Did you know that whether at that time	13 Do you see that?
14 period, whether outsiders like Demarco employees would	14 A. Nitrile Examination Gloves Size XL, yeah.
15 be allowed in MD 3PL warehouses, given the protocols?	15 Q. All right. You don't have any reason to
16 A. No, MD 3PL had to hassle with them and make	16 doubt that that label was placed on this pallet by
17 sure the drivers could go in and inspect the goods.	17 MD 3PL at their warehouse, do you?
18 And I know also that, I don't know who at	18 A. Again, the question, can you repeat?
19 Rock Fintek, but they got through Demarco pictures	19 Q. Yeah.
20 because the driver's would take pictures.	20 Do you have any reason to doubt that this
21 Q. Okay. So look at the pictures attached to	21 label was attached to this pallet by the employees at
22 this e-mail. So let's go to the second picture. It's	22 the MD 3PL warehouse?
23 on Page 3.	23 A. If I have a doubt?
24 Do you see a photograph with a hand that has	24 Q. Yeah.
25 some bracelets on it, on the right?	25 A. I don't know.

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Q. You would agree with me that no one from	2 Demarco or the driver. I don't know if Demarco would
3 Rock Fintek is copied on this e-mail; correct?	3 know. You have to ask each driver.
4 A. Yeah, but it could be that the driver, when	4 I don't know what the request was. I know
5 he picked up, he printed out these papers and he put	5 the request from -- was to get pictures for, umm, for
6 them there. I don't know.	6 Rock Fintek and open up more boxes and check.
7 Q. Okay. Well, look at the --	7 But I don't know who put the label. I
8 A. We could agree when the driver, when he	8 definitely did not put the label there.
9 picked up goods, he could have come with papers and	9 Q. You, yourself -- I'm not suggesting you,
10 pick up. I don't know.	10 yourself, did.
11 Q. Well, stay on Page 6 with me.	11 But is it your testimony that your warehouse
12 Do you see -- and if you need to maybe	12 logistics providers were not tasked with shrink
13 enlarge it a little bit on your iPad -- do you see in	13 wrapping the pallets before they were picked up by
14 the background there are shrink wrapped pallets that	14 Rock Fintek's and other customers' drivers?
15 have this piece of paper inside the shrink wrapping	15 A. Again, my testimony is that there was shrink
16 that are hoisted way up top?	16 wrap but the paper, anybody could put in. It's a
17 Do you see that?	17 lose -- Shrink wrap, you can pull it, shlep it, you
18 Way up top in the top of the picture there's	18 know, I don't know what that means, but can pull it a
19 another pallet and then inside it, you can see the	19 little bit and you can slide in the paper. It's very
20 shininess over the paper. There's another label that	20 normal.
21 says Kitchen Winners and it has different container	21 Q. And if you go to Page 8 of these document --
22 numbers on it. It's a little harder to read from far	22 A. One second, sorry. Page 8. Yes, okay.
23 away.	23 Q. Okay. We see another label here that says
24 Do you see that?	24 Kitchen Winners and it has a number on it and then it
25 A. No, I don't know where you're talking about.	25 says Nitrile Examination Gloves Size M.
Page 147	Page 149
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 I see a label, a small square label on top of a blue	2 Do you see that?
3 pallet.	3 A. Yes.
4 Q. Okay. And then go to the top row of the	4 Q. And the shrink wrapping goes all the way up
5 boxes above that.	5 to some boxes at the very top and it looks like it
6 Do you see it says Kitchen Winners and then	6 actually goes over the top of the pallet.
7 starts with TCNU?	7 Do you see that?
8 A. Yes.	8 A. Philip, you want to come down to the
9 Q. Okay. You're not saying that a Rock Fintek	9 warehouse and I will show you how it is.
10 truck driver shrink wrapped that label inside over the	10 Q. Well, would you agree with me it would be --
11 pallet; is that your testimony?	11 A. No, I worked at one point in the warehouse
12 A. I don't know. I said I don't know. It	12 here in Brooklyn and it's very possible a driver comes
13 could be that they put -- when they came to pick up,	13 and he needs to put it in. It's very normal.
14 they put it in there. I don't know.	14 Q. Okay. And if a Demarco representative
15 Q. Well, who did the shrink wrapping of the	15 testified that the drivers were not allowed in the
16 pallets for shipments that were picked up from MD 3PL?	16 warehouses because of COVID protocol at that time, do
17 A. It could be the driver.	17 you have any reason to believe --
18 Q. You weren't paying your warehouse for shrink	18 A. I heard him testifying and that's totally
19 wrapping.	19 wrong because they took pictures and send it to either
20 A. Again, but I know the drivers went to the	20 Tommy or to Bradley. There was clearly pictures going
21 back, so I don't know. It could be that sometimes	21 on with the inspections.
22 the driver, because they push them in, it depends,	22 Q. In every warehouse at MD 3PL warehouses?
23 sometimes the driver will say, "Okay, I will help. I	23 A. At the pickup. I didn't say every pick up
24 will do anything."	24 but randomly they did the inspections.
25 So I don't know. You have to ask the	25 Q. Aren't those pictures taken from once the

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Page 150	Page 152
<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 containers were loaded onto the trucks?</p> <p>3 A. Again, what did you say? Containers --</p> <p>4 Q. I'm sorry, the pallets.</p> <p>5 A. How is the container loaded into the truck?</p> <p>6 Q. Let me rephrase the question.</p> <p>7 A. Give me the question.</p> <p>8 Q. Weren't the pictures taken once the pallets</p> <p>9 were loaded into the trucks?</p> <p>10 A. So that's where the driver stands and he</p> <p>11 watches how it gets loaded and he puts in the paper.</p> <p>12 Q. Oh, okay. So is that -- so I just want to</p> <p>13 make sure. Is that --</p> <p>14 (Simultaneous talking. Instruction</p> <p>15 from Madame court reporter.)</p> <p>16 BY MR. RAKHUNOV:</p> <p>17 Q. So my question is: Are you saying that this</p> <p>18 is what happened, that Rock Fintek drivers slipped in</p> <p>19 these sheets into the pallets?</p> <p>20 A. I didn't say -- I said it could be as well.</p> <p>21 I worked in the warehouse and I told you</p> <p>22 before that this could be a protocol, a driver come in</p> <p>23 with sheets and put it in.</p> <p>24 I didn't say that either yes or either no.</p> <p>25 I don't know.</p>	<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 piece of paper --</p> <p>3 A. Hold on a second, I have to go back.</p> <p>4 Q. Either Page 8 or 6. It doesn't matter. The</p> <p>5 question will be the same.</p> <p>6 A. Sorry, Phillip, I want to see when talking</p> <p>7 to you and I need to see if you stopped talking.</p> <p>8 That's why when I look at the picture, I can't see if</p> <p>9 you stopped or not.</p> <p>10 I'm on eight now.</p> <p>11 Q. Okay, you're on eight. Let me go there too.</p> <p>12 So do you see under the word Kitchen Winners</p> <p>13 there's a number.</p> <p>14 MR. RAKHUNOV: For the record, it's</p> <p>15 MATU-2682625.</p> <p>16 BY MR. RAKHUNOV:</p> <p>17 Q. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Do you have an understanding as to</p> <p>20 what that number refers to?</p> <p>21 A. No.</p> <p>22 Q. Okay. You don't believe that's a container</p> <p>23 number?</p> <p>24 A. I don't believe so. I don't know.</p> <p>25 Q. Okay. Let me ask you, assuming that this</p>
<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 Q. Let me ask you -- but this is an e-mail from</p> <p>3 your warehouse? Your warehouse, not from someone</p> <p>4 else; right? And there's no --</p> <p>5 A. One second. You say I talk over you.</p> <p>6 Yes, the warehouse send it to me but the</p> <p>7 driver is still sitting there and when they take the</p> <p>8 pictures, he's putting it in. I don't understand</p> <p>9 where the discrepancy were.</p> <p>10 I didn't say that it didn't come from my</p> <p>11 warehouse from 3PL. I didn't say that I know for a</p> <p>12 fact.</p> <p>13 I just said just to your knowledge it could</p> <p>14 -- the drivers were inside inspecting and helping to</p> <p>15 push out the loads because there was a backup as I</p> <p>16 told you.</p> <p>17 Every load was stressful. Drivers sitting</p> <p>18 there 23 hours and they help push them in. So they</p> <p>19 were willing to help to do anything to get this load</p> <p>20 loaded.</p> <p>21 Q. Do you know why -- I didn't see an e-mail</p> <p>22 from you so do you remember why Mr. Esparza was</p> <p>23 actually sending you photographs of these pallets?</p> <p>24 A. I don't recall.</p> <p>25 Q. So staying on Page 8, if we look at that</p>	<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 refers to a container number, let's just make that</p> <p>3 assumption, would a Rock Fintek driver know the number</p> <p>4 of a container that arrives to your warehouse from</p> <p>5 China?</p> <p>6 A. I don't assume. I don't know.</p> <p>7 Q. Okay. Are you aware of what a packing list</p> <p>8 is in connection with a glove shipment?</p> <p>9 A. Yes.</p> <p>10 Q. What is your understanding of what a packing</p> <p>11 list is?</p> <p>12 A. A packing list has how many cartons is on</p> <p>13 the container.</p> <p>14 Q. What kind of information is typically</p> <p>15 contained in a packing list?</p> <p>16 A. It varies. Everybody does it the way they</p> <p>17 want to do it. It doesn't have -- it has -- some</p> <p>18 people put an item number, some people put a product,</p> <p>19 some people put a -- everybody does it different.</p> <p>20 It's done by a shipping company or</p> <p>21 something, so I don't know. Everybody does it</p> <p>22 different.</p> <p>23 Q. So for gloves that were originating with</p> <p>24 MedCare or GTS, they were the ones that created the</p> <p>25 packing list when they put the containers on the</p>

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 vessels in China or their shipping company?	2 that were produced to us as attachments. And let's
3 A. Umm, I don't know if it's their shipping	3 just look at the first one. It's on Page 3 of the
4 company -- or a shipping company, umm, or they. I	4 document.
5 don't know who create it.	5 Do you see it says at the top Packing List?
6 Q. Okay. Let me just show you a document so	6 It has the name of Dongguan Grinvald Technology. It
7 we're not --	7 has a date. And it says to Kitchen Winners.
8 A. I can go off of Number 8? I'm still on	8 Are you with me so far?
9 Number 8. I'm sorry, I apologize.	9 A. Yes.
10 Q. Oh, no, don't apologize. We're done with	10 Q. Okay. And then there's a little -- it looks
11 that one.	11 like this came as an Excel document. It has a
12 A. That's why I overlap when talking to you	12 production name, which identifies at least these
13 because when I go into a document you have to have a	13 packing lists as having Nitrile Examination Gloves.
14 little patience with me because I don't see your	14 Do you see that?
15 screen and I don't know if you stopped talking or not.	15 A. Yeah.
16 Q. I will say this. When we do finish this up,	16 Q. Okay. And then it has quantity, accounts,
17 perhaps tomorrow morning, if you do have a laptop	17 and some other information in this document.
18 available, it will make it go even faster.	18 Do you see that?
19 A. I'm traveling, that's impossible.	19 A. Again, quantity, yes. And what? Accounts?
20 Q. All right.	20 Q. Yes. There's a whole bunch of information
21 (Defendant's Exhibit 11 marked for	21 about the gloves; right?
22 identification.)	22 A. I don't see information but I see account.
23 BY MR. RAKHUNOV:	23 Q. Account, volume, and some others and weight?
24 Q. I just put another document into the chat	24 A. Account and quantity is the same. What
25 box. So this is another one from your production.	25 else?
Page 155	Page 157
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 It's Bates labeled AKW-3340. It's a nine page	2 Q. That's it.
3 document.	3 Then look at the three numbers below -- the
4 The e-mail on April 27, 2021 is from someone	4 letter number combinations below the table. One
5 CiCi-GTS@hotmail.com.	5 begins with MATS and then ESPU and then MATU.
6 Do you remember who Cici -- if that's how	6 Do you see those three numbers?
7 you pronounce it -- at GTS is?	7 A. Yes.
8 A. I don't recall.	8 Q. Do you know what those number-letter
9 Q. All right. The e-mail address suggested	9 combinations refer to?
10 someone -- well, actually, look at the signature box.	10 A. No.
11 Cici Chen at Dongguan Grinvald Technology.	11 Q. Okay. You don't know these to be container
12 Do you see that?	12 numbers?
13 A. Yes.	13 A. No.
14 Q. That is GTS; right? Or we've been referring	14 Q. Do you have any reason to disagree with
15 to it as MedCare?	15 testimony by someone else that these are container
16 A. Yes.	16 numbers?
17 Q. Okay. If you go to the bottom of the first	17 A. I don't know. I didn't say I disagree. I
18 page, do you see there's an e-mail from you to Cici	18 don't know.
19 and you ask for invoice and packing lists for the	19 Q. That's fine. That's what I'm asking you.
20 containers that shipped; right?	20 A. I don't know if these are the container
21 A. Yes.	21 numbers. If I don't know, I don't know. I can't tell
22 Q. And there's seven attachments to these	22 you something that I don't know.
23 e-mail, as you can see on Page 2; correct?	23 Q. Okay. Well, you knew in April, because when
24 A. Correct.	24 you wrote -- if you go back to Page 1 to your e-mail
25 Q. And then following that are seven documents	25 to Cici, you actually write: "Please send invoice and

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 packing lists for the below containers."	2 Q. Okay. Do you recognize the types of
3 And you list a number of container numbers;	3 documents in Exhibit 12? It's a four page document.
4 correct?	4 A. I think it's a Bill of Lading.
5 A. Okay. And then this is container numbers,	5 Q. And who is T-Z Cargo Limited?
6 yeah, maybe.	6 A. T-Z Cargo Limited is a forwarded company out
7 Q. Okay. Well -- okay.	7 of China.
8 So is it fair to say that you understood,	8 Q. And who hired them? Was it someone you
9 at least in April of 2021, that, for example, ESPU-	9 hired or someone MedCare hired?
10 8023819 stands for a container number?	10 A. Someone that I hired.
11 A. It's fair to say from here that it's	11 Q. And they ship the products to you from the
12 container number, yeah.	12 warehouses in China; correct?
13 Q. Okay. And these particular container	13 A. Correct.
14 numbers have -- or at least represented to have the	14 Q. And if -- do you know -- if you go in the
15 types of gloves that are listed in the seven	15 middle of the document where it says number and
16 attachments that you produced in this case; correct?	16 description of packages and goods, it simply just says
17 A. Again, what's the question again?	17 "gloves"; right?
18 Q. Withdrawn.	18 Do you see that?
19 Is it fair to say that MedCare provided you	19 A. Yes.
20 with similar invoices and packing lists for all	20 Q. It doesn't describe the types of gloves that
21 shipments of gloves that you obtained from them?	21 are inside the containers; is that fair?
22 A. I don't know. I would have to check.	22 A. Yeah.
23 Q. Okay. Well, would you have produced all of	23 Q. Okay. And then do you see, at least on the
24 those packing invoices and -- shipping invoices and	24 first page, the word "surrender"?
25 packing lists in this case?	25 Do you know what that means?
Page 159	Page 161
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 MR. SPERBER: Objection to form.	2 A. Surrender would be --
3 A. I think so, to the best of my knowledge.	3 Q. Do you know what that means with respect to
4 Q. All right.	4 the gloves here?
5 THE WITNESS: Please tell me when I	5 A. Where do you see -- First, I don't see
6 can get out of this page because I don't	6 "surrender."
7 see you guys.	7 Q. In the big, bold letters on the first page.
8 MR. RAKHUNOV: You can get out of	8 A. I don't have the slightest idea what it
9 that one.	9 means.
10 THE WITNESS: No, because when you	10 Q. Okay. And then under that do you see on the
11 stop and I'm staying in there, I don't	11 left-hand side there are some letters and numbers
12 know if you're done with this or not.	12 separated by some slashes and the first two look like
13 I'm sorry, I keep on jumping back and	13 the same numbers we saw in the packing list a few
14 forth.	14 minutes ago?
15 MR. RAKHUNOV: No problem. All	15 Do you see that? One starts ESPU and
16 right.	16 another one starts with MATU?
17 (Whereupon, a recess was taken.)	17 A. Yes.
18 MR. RAKHUNOV: I'm putting a new	18 Q. Those are, again, container numbers; correct?
19 exhibit into chat box. This will be	19 A. No, it doesn't mean it's container number.
20 Number 12.	20 I think now when I look at it it's Bill of Lading
21 (Defendant's Exhibit 12 marked for	21 numbers.
22 identification.)	22 Q. Well, if you look at the top of the Bill of
23 BY MR. RAKHUNOV:	23 Lading, top right, do you see an actual box for Bill
24 Q. Let me know when you have that open.	24 of Lading number and it's a different number?
25 A. Yes.	25 A. Yes, okay.

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Q. Does that help distinguish container number	2 Do you see that?
3 from Bill of Lading number?	3 A. Yes.
4 A. I don't know.	4 Q. So again, the MedCare folks are providing
5 But you see on the next box it says -- I	5 you with invoices and packing lifts for another
6 don't know what it's says. What does it say? I can't	6 shipment?
7 read it. It says 6000?	7 A. Yes.
8 What does it say over there?	8 Q. Okay. So let me ask you a question.
9 Q. I'm not sure what you're referring to.	9 So we looked at the Excel spread sheet
10 A. Next to the Bill of Lading number, the other	10 earlier with the pack lists, and I think that we all
11 number and it says there something.	11 agree that there's more than 50 pickups by Rock Fintek
12 Q. Manifest number?	12 of gloves under the SPA or -- Are we good so far?
13 A. Yes.	13 Do you agree with that?
14 Q. Okay. Do you know what that is?	14 A. Yes.
15 A. No. Manifest might be some paperwork. I	15 Q. Okay. Do you know of how many shipments
16 don't know.	16 from MedCare comprised those 50 plus shipments that
17 Q. Okay. If these numbers are exactly the same	17 Rock Fintek picked up?
18 -- if the numbers I just asked you about that begin	18 A. I don't know, but I would assume 65, 70.
19 with ESPU and MATU, are exactly the same as the	19 Q. So the shipments that came in from MedCare
20 numbers that you asked in the e-mail before to -- if	20 were then on average smaller than the shipments that
21 you identify them as container numbers, then we can	21 came in from -- that were then picked up by Rock
22 agree that these are container numbers; yes?	22 Fintek during the performance of the SPA?
23 A. Umm, I assume so.	23 A. No, not -- not all of them. Some of them.
24 Q. Okay. All right. You can close that one.	24 Q. Okay.
25 A. I just want to tell you something. Look at	25 And looking now at Exhibit 13 where it's an
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 -- again, I bring it to your attention.	2 e-mail from Anna -- I'm sorry, from Cici that copies
3 You see something original, a number on the	3 Anna and you attaching shipping invoice and packing
4 top 0046.	4 lists, do you recall that it was MedCare's custom and
5 Do you see that? It's cut off.	5 practice to send certainly invoices to you for all
6 Q. Okay.	6 shipments; is that fair?
7 A. So I don't know, I'm not so familiar with	7 A. I don't -- I didn't get nothing from you. I
8 the Bill of Lading.	8 don't know what you're talking about.
9 Q. Okay. Let's take a quick look at another	9 You said you put me in something to look at.
10 document. This is --	10 Q. Do you have that --
11 A. One second. My plug fell out. I don't want	11 A. Rephrase your question. I thought that you
12 my power to get disconnected.	12 were putting in something to look at.
13 Q. Okay.	13 Q. No, no, we are still looking at the last
14 (Defendant's Exhibit 13 marked for	14 exhibit, the May 4th e-mail from Cici to you.
15 identification.)	15 A. And?
16 BY MR. RAKHUNOV:	16 Q. Okay. Do you have it?
17 Q. Let me know when you have that open. It	17 A. (No response heard.)
18 says now 13. This is now Exhibit 13.	18 Q. MedCare sent you invoices for every
19 So it's a one-page document with an e-mail	19 shipment; right? They wanted to get paid?
20 without the attachments, again May 4, 2021, produced	20 A. To the best of my recollection.
21 by you, and it's an e-mail from Cici-GTS@hotmail to	21 Q. Okay. With the invoices, they enclosed in
22 you, Mr. Banon, and some others.	22 the same Excel document as the invoice packing lists
23 A. Yes.	23 for each shipment; correct?
24 Q. It says, "Please see attached shipping	24 A. What? What again?
25 invoice and packing list for last week."	25 Q. Do you see in this document before you,

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 each attachment has a shipping invoice and a packing	2 it in your production.
3 list within the same document for any given container?	3 Q. Yeah, so not my question, though.
4 A. No.	4 My question is that the amounts -- the
5 Q. You don't see that?	5 number of gloves from MedCare to Kitchen Winners
6 Do you see each attachment is entitled	6 should be at least as much, and like you said probably
7 shipping invoice and PL for -- and it has a container	7 more, than the number of gloves delivered to Rock
8 number?	8 Fintek during that time period; correct?
9 A. Yes.	9 A. Assuming, yeah.
10 Q. Okay. So in multiple e-mails that we've	10 Q. All right. You can close that document.
11 seen, MedCare is sending you invoices and packing	11 MR. RAKHUNOV: And I know we're
12 lists together? Yes?	12 starting to run out of the afternoon
13 A. Yes.	13 today.
14 Q. All right. And you've testified that there	14 Let me just quickly change gears
15 are about 60 or maybe more shipments that you received	15 here. I'm putting in Exhibit 14.
16 from MedCare for gloves that were sold to Rock Fintek;	16 (Defendant's Exhibit 14 marked for
17 correct?	17 identification.)
18 A. Correct.	18 BY MR. RAKHUNOV:
19 Q. Okay. Now, would it surprise you if I told	19 Q. Do you recognize the document before you in
20 you that we've only received from your attorney in	20 Exhibit 14?
21 discovery five such e-mails containing invoices and	21 A. No.
22 packing lists and nothing close to the 60 that you're	22 Q. You don't recognize this to be the Sales and
23 describing?	23 Purchase Agreement between Kitchen Winners and Rock
24 A. That would be very surprising because when	24 Fintek?
25 I saw discoveries that we sent out to you was much	25 A. I'm going to look now. I don't know. Let's
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 more than that.	2 see.
3 Q. So -- and if we got the right number of	3 Between Kitchen Winners and Rock Fintek,
4 documents, the right documents, then we should be able	4 yeah.
5 to reconcile the amount of gloves in the invoices and	5 Q. If you go to Page 4 of the document.
6 packing lists from MedCare to those that Rock Fintek	6 A. Four, yeah.
7 picked up from you; correct?	7 Q. And is that your signature at the top?
8 A. No.	8 A. Yes.
9 Q. Why not?	9 Q. Okay. And you signed on behalf of Kitchen
10 A. Because I had other customers also not only	10 Winners; correct?
11 Rock Fintek.	11 A. Correct.
12 Q. Okay. So then there should be more coming	12 Q. And then just below that, Joseph Mendlowitz
13 from MedCare than what was sold to Rock Fintek?	13 signs on behalf of Adorama; correct?
14 A. Ask my attorney. He went into my computer	14 A. Joseph Mendlowitz on behalf of Adorama,
15 and made a search.	15 yeah.
16 I didn't do the search because I am not	16 Q. And Adorama is a party to this agreement;
17 familiar with computer. He had somebody else and I	17 correct?
18 opened them up, my computer, and I said, "Have a field	18 A. Yeah, as the buyer.
19 day and go in and do everything you need."	19 Q. You mean seller?
20 And to my knowledge, I saw way more than	20 A. No, I mean buyer.
21 four and way more than five and way more than ten. So	21 Q. Adorama is the buyer under this agreement?
22 I don't know, or you lost it or you misplaced it. So	22 A. Maybe, I don't know.
23 please --	23 Q. What is Adorama buying from you that --
24 Q. And I'm not -- and I'm not --	24 A. I don't know. It doesn't say what Adorama
25 A. I'm still talking, I'm sorry. Please find	25 is.

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Q. Do you see just below that there's an under-	2 want to make sure that the record is clear.
3 line heading "Buyer"?	3 What did you do to make sure that the gloves
4 Do you see that?	4 that Kitchen Winners sold to Rock Fintek complied with
5 A. Yes.	5 those specifications of being blue medical exam grade
6 Q. Under that there's a signature by Bradley	6 with FDA 510k?
7 Gilling on behalf of Rock Fintek; do you see that?	7 A. First, I produced the paperwork, as I told
8 A. Yes.	8 you, and then I took it to professionals in the
9 Q. And the underlined heading above that under	9 industry and I asked them if that's -- with the
10 "Seller" is Kitchen Winners and Adorama; correct?	10 paperwork, if it lines up and if it's medical grade
11 A. No, Kitchen Winners is seller not Adorama.	11 with FDA 510k and they reviewed it.
12 Q. Okay. Is there a label for Adorama's role	12 After that when it came in, I inspected the
13 as a signatory to this agreement?	13 color blue; I inspected whatever I could inspect with
14 A. As we told Arik Maimon that Adorama is going	14 my eyesight, but I'm not a professional to make a test
15 to give me a loan for the money and he's guaranteed me	15 and nobody could make that.
16 the loan.	16 Q. And just so there's no confusion. Other
17 Q. Okay. So when did you tell Arik Maimon	17 than Mr. Gombo (ph), was there any other professional
18 this?	18 who you relied on to test the gloves?
19 A. All the phone conversations that we had.	19 A. Yes, we spoke about that and I told you
20 Q. Do you recall having a telephone	20 there was several other ones.
21 conversation on which Mr. Gilling and Mr. Kato were	21 Q. Okay. But you couldn't remember any of
22 present in negotiating this agreement?	22 them?
23 A. No.	23 A. Oh, yeah, I told you Dynarex and I told you
24 Q. You've heard both of them testify being on a	24 another two, which I don't remember.
25 phone call with you and with Mr. Mendlowitz prior to	25 Q. You said you replied --
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 signing this agreement?	2 A. I don't see.
3 You heard that testimony; right?	3 I told you Dynarex and you even told me that
4 A. Yes, and we asked to provide proof and it	4 Dynarex doesn't have nice things to say about me.
5 was never provided.	5 Q. I remember that.
6 Q. I'm asking if you heard that testimony;	6 A. Oh, okay. I just wanted --
7 right?	7 (Simultaneous conversation.)
8 A. I answered you: I heard the testimony, we	8 BY MR. RAKHUNOV:
9 asked for proof, and you never provided it. I	9 Q. Mr. Weiner, you're speaking over --
10 answered you. I don't think I was public (ph). I was	10 A. I told you -- I'm sorry, one second. You
11 very clear.	11 don't see me -- I don't know if you can see me. I
12 Q. Okay. And you would agree with me that this	12 don't see you when I open the paper. So you have to
13 -- Okay, let's go to paragraph one of the Sale and	13 tell me or I can close it so I can see if you stopped
14 Purchase Agreement.	14 or what.
15 A. Let me go back. Hold on.	15 I don't know sometimes if you finished a
16 Q. Yeah, Page 1.	16 sentence or not. I apologize. Let's do it a
17 A. Page 1, yeah. Okay, that's Page 1. I'm	17 different way.
18 here by Page 1.	18 I mean when I open up my screen, now I see
19 Q. Under Products, you agree with me that this	19 you. I can see if you're talking or you're stopping.
20 contract identifies Nitrile Gloves (Box 100) color	20 Q. Just let me ask a question.
21 blue, medical exam grade with FDA 510k?	21 A. Sure.
22 A. Medical exam grade.	22 Q. Let me ask the question.
23 Q. With FDA 510k; correct?	23 So did you hire Dynarex to review the gloves
24 A. Correct.	24 that you would be selling to Rock Fintek to make sure
25 Q. And I think I may have asked you this but I	25 that they were compliant with this SPA?

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 A. I didn't hire nobody. I went to consult	2 contract right now, I don't know it had to say on the
3 with people.	3 box "examination" but that's my lawyer would have to
4 Q. So Mr. Gombo wasn't someone you hired? He	4 -- Okay, what? 2b? Okay, yes.
5 was just a friend that you showed the gloves to?	5 Q. I'm sorry, I didn't hear what you just said.
6 A. I went to the industry, the people that buy	6 You're looking at the contract right now and
7 the highest volume of the gloves, and I spoke to them.	7 what?
8 Q. Did you have any formal testing performed on	8 A. I see now it doesn't say that it has to be
9 the gloves? Testing, chemical or physical testing?	9 -- say on the box "examination glove." It says it has
10 A. I have from Anna Grinvald.	10 to be an examination glove. Maybe the box can have
11 Q. You relied on whatever paperwork she gave	11 whatever it wants. But it doesn't say.
12 you; correct?	12 But what's the difference? That's what my
13 A. On the testing.	13 lawyer should do.
14 Q. Okay. Look back at the Sales and Purchase	14 Q. All right. So under Payment Terms in
15 Agreement, please. And I will point you to a line and	15 Paragraph 2c, the contract says "Buyer shall pay
16 then maybe you can close it while you answer the	16 seller in full by wire transfer of funds for each
17 question so you can see me.	17 container delivered to the seller's warehouse in Los
18 A. Okay.	18 Angeles, California."
19 Q. So then you see it says Brand, MedCare	19 Do you see that?
20 examination glove?	20 A. Yes.
21 A. I didn't open it. One second. Hold on.	21 Q. And Rock Fintek, in fact, paid by wire
22 Brand, MedCare examination gloves.	22 transfer; correct?
23 Q. So that's a brand, not a glove	23 A. Correct.
24 specification; correct?	24 Q. Who did they wire the money to?
25 A. Correct, MedCare.	25 A. Again, on my behalf I told them to wire the
Page 175	Page 177
1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 Q. Okay. Examination glove; correct?	2 money to me. But I directed them where to wire the
3 A. Correct.	3 money.
4 Q. And do you agree with me that a brand is	4 Q. Where did they wire the money to under this
5 something that's written on the packaging; correct?	5 purchase agreement?
6 A. Not always.	6 A. I direct to me. I directed them to wire it
7 Q. Well, if the packaging says something	7 to Adorama.
8 different than MedCare examination glove, that	8 Q. So they wired it to Adorama?
9 wouldn't be compliant with this contract, would it?	9 A. Again, if they wired to Mark Neuson (ph), it
10 A. Do you see one line above that medical	10 was also directed by me -- to me.
11 grade? What does that mean?	11 Q. But you're not answering my question.
12 Q. I'm asking about the brand not about the --	12 You would agree with me that Rock Fintek
13 bouts?	13 wired every payment under this agreement to Adorama
14 A. No, it doesn't mean it. The brand was	14 Inc. bank account number ending with 5791?
15 MedCare.	15 A. I dictate them to wire it over there.
16 Q. Okay, but it doesn't just say MedCare. It	16 Q. Well, you don't dictate --
17 says MedCare examination --	17 A. I'm sorry, I don't see you.
18 A. You want me to tell me that examination is a	18 There should be an e-mail or something to
19 brand? Not that I know of.	19 that effect that I say to them that they should wire
20 Q. I'm telling you what's written in this	20 on my behalf to Adorama.
21 agreement. That's all I'm telling you.	21 Q. Well, you don't need to look at an e-mail.
22 A. That's MedCare and my understanding is	22 You just need to look at Paragraph 2b of the purchase
23 MedCare examination glove. That's it.	23 agreement.
24 Q. Okay. Look at Paragraph 2b.	24 A. Yeah, so they wired it to me. There's such
25 A. As a matter of fact from looking at the	25 a thing in the common daily business that you tell

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<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 your client to wire on my behalf to this and this</p> <p>3 place. This is my lender.</p> <p>4 Q. Where does it say in the Sales and Purchase</p> <p>5 Agreement that the payments to Adorama Inc. bank</p> <p>6 account are being made on your behalf?</p> <p>7 A. Where does it say in the purchase agreement,</p> <p>8 what?</p> <p>9 Q. That the payments are being wired to the</p> <p>10 Adorama bank account on your half?</p> <p>11 A. Again, I was very clearly spoken to Arik</p> <p>12 Maimon that this is my lender and the money has to go</p> <p>13 to him.</p> <p>14 Q. When did you tell Arik that?</p> <p>15 A. In all our conversations.</p> <p>16 Q. And was anyone else on these phone calls</p> <p>17 when you told Arik these things?</p> <p>18 A. Umm, it might have been Mendel in the</p> <p>19 beginning. Umm, and also towards the end, I told it</p> <p>20 to Bradley and Tommy when things started getting out</p> <p>21 of hand. I told them I have to check everything with</p> <p>22 my lender and discuss everything with him.</p> <p>23 Q. And there's nothing in this agreement that</p> <p>24 describes Adorama as a lender, is there?</p> <p>25 A. As I told you before, I specifically told it</p>	<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 Q. Nausbaum (ph)?</p> <p>3 A. Nausbaum's office, not Nausbaum himself.</p> <p>4 Q. Okay. Do you know if Rock Fintek had a</p> <p>5 lawyer involved in negotiating this agreement with</p> <p>6 your lawyer?</p> <p>7 A. Not that I know of.</p> <p>8 Q. Okay. All right. Let's put that one away.</p> <p>9 Again, just trying to get through as many issues as we</p> <p>10 can before we close up for the day.</p> <p>11 Do you remember an issue coming up with Rock</p> <p>12 Fintek receiving LevMed gloves and not MedCare gloves</p> <p>13 at one point in the spring of 2021?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know where the LevMed gloves came</p> <p>16 from?</p> <p>17 A. From the warehouse.</p> <p>18 Q. Okay. What happened? What happened? I</p> <p>19 mean you would agree with me -- before I even ask</p> <p>20 that.</p> <p>21 You would agree with me that LevMed gloves</p> <p>22 were not included in the Sales and Purchase Agreement;</p> <p>23 right? You can see that pretty easily.</p> <p>24 A. Correct.</p> <p>25 Q. Okay. So why did Rock Fintek receive LevMed</p>
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<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 to Arik Maimon and I think that Arik Maimon --</p> <p>3 Q. Wait --</p> <p>4 A. I'm still talking.</p> <p>5 Q. And I'm going to cut you off because you're</p> <p>6 not answering my question.</p> <p>7 (Simultaneous talking.)</p> <p>8 MR. RAKHUNOV: He's not answering</p> <p>9 my question.</p> <p>10 BY MR. RAKHUNOV:</p> <p>11 Q. I'm not asking what you told Mr. Maimon.</p> <p>12 I'm asking: Is there anything in this</p> <p>13 agreement that describes Adorama as a lender?</p> <p>14 That's a pretty simple "yes" or "no"</p> <p>15 question.</p> <p>16 A. Yes.</p> <p>17 Q. Where?</p> <p>18 A. I don't know, I don't read English so look</p> <p>19 for yourself. Find it.</p> <p>20 Q. Okay. You know, respectfully you signed</p> <p>21 this agreement.</p> <p>22 Did you have somebody with a better ability</p> <p>23 to read English review this and advise you on signing</p> <p>24 it?</p> <p>25 A. My lawyer.</p>	<p>1 (HERSHEY WEINER - VOL. 1, PM SESSION)</p> <p>2 gloves?</p> <p>3 A. It was a mistake of the warehouse.</p> <p>4 Q. Okay. And that mistake was brought to your</p> <p>5 attention as soon as it was discovered at the Medline</p> <p>6 warehouses; correct?</p> <p>7 A. I assume so.</p> <p>8 Q. Okay. And do you recall Rock Fintek telling</p> <p>9 you that they were having a problem getting paid by</p> <p>10 their client for the LevMed gloves because those were</p> <p>11 not approved and not the gloves that were expected</p> <p>12 under the agreement?</p> <p>13 Do you remember that?</p> <p>14 A. I just want to point out to you, you have</p> <p>15 exactly five minutes. I just want to point that out</p> <p>16 to you.</p> <p>17 Q. I know that and --</p> <p>18 A. I will answer your question. I just wanted</p> <p>19 to point it out to you.</p> <p>20 Rock Fintek -- Arik Maimon called me.</p> <p>21 Nobody else called me. Arik Maimon called me. And I</p> <p>22 offered every angle in every way to go down and pick</p> <p>23 it up and exchange it and anything that I can do to</p> <p>24 resolve that and they didn't want -- Arik Maimon</p> <p>25 didn't want. I don't know -- he kept on saying, "I'm</p>

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 sorry, it was already distributed to --	2 was not -- was delayed or payments or something.
3 Q. Did you see the e-mail exchanges that	3 Q. And you made them buy a \$75,000 bond after
4 included Mendel Banon -- we'll look at them when we	4 that; correct?
5 resume, but I just want to make this as simple as	5 A. What? What?
6 possible.	6 Q. You forced them to buy a bond for \$75,000
7 Do you remember seeing e-mail exchanges that	7 after that?
8 certainly involved Mendel Banon and folks at Rock	8 A. Show it to me, please.
9 Fintek regarding the LevMed issue?	9 Q. I'm just asking you whether --
10 A. Again, I don't recall exactly. I recall	10 A. Why should I make them buy a \$75,000 bond?
11 getting Arik Maimon on the phone begging him that it	11 Haha. Philip, get your story straight.
12 was a mistake. Actually, I needed the goods. I was	12 I never made them buy no bonds. I don't
13 fighting with him to give it back to me. I told him	13 know what a bond is.
14 it was not his. It was a different customer,	14 Q. Okay. If that's your testimony, that's all
15 specially ordered for somebody.	15 I can ask for.
16 I begged him to give it back to me. I was	16 A. Do you have it in an e-mail? Do you have it
17 willing to go down with the truck and pick it up and I	17 somewhere in writing?
18 was willing to do anything.	18 Q. I'm asking the questions.
19 He supposedly gave me a story, which I will	19 A. I don't know what you're talking about.
20 give it to you and that's where we're going to most	20 Q. Okay, that's your testimony.
21 probably try to conclude.	21 MR. RAKHUNOV: If you want to
22 He gave me a story --	22 finish here, you can. It's 2:59.
23 Q. Can I just interrupt you? I want you to	23 THE WITNESS: I don't remember what
24 finish your answer but before you do, let me ask a	24 the question was.
25 slightly different question.	25 MR. RAKHUNOV: That's okay.
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 You don't have any reason to dispute that	2 THE WITNESS: Give me the question
3 Rock Fintek's payments from Ascension Health were	3 and I will tell you.
4 delayed while the LevMed issue was being sorted out?	4 MR. RAKHUNOV: That's okay.
5 A. I do have a belief that it was not delayed.	5 THE WITNESS: I know I offered to
6 Q. Okay. So I do want to hear your basis for	6 pick it up. I was really willing to do
7 that, for why you think the payments weren't delayed.	7 anything to resolve it.
8 A. Because Rock Fintek, first of all, got a	8 And then -- oh, Arik Maimon told my
9 very big deposit of close to \$9 million and everybody	9 he can't pick it up because they already
10 can get on the phone and say move this to the side and	10 distributed it out to the hospitals, or
11 we'll pick it up. It's normalcy.	11 whatever, the customers.
12 I dealt with a lot of big companies and it's	12 BY MR. RAKHUNOV:
13 a normal thing that mistakes happen in the warehouse	13 Q. Did you ever put that offer to take the
14 and it can be picked up.	14 LevMed gloves back in writing anywhere? You or
15 The only thing I can think of that if they	15 Mr. Banon, to your knowledge.
16 can prove that they got a delay, it might be for this	16 A. I don't know because, again, I told you I'm
17 particular ten pallets, but not delayed in total	17 not so good at writing. Things that needs to be
18 because there was other trucks delivered.	18 resolved at the moment, I pick up the phone and I
19 Rock Fintek didn't -- Every day the truck	19 straighten it out man to man.
20 driver came to me, they didn't have money, unless they	20 But I don't know what this -- if it's in the
21 gave the money. So there was no delay from Rock	21 writing, and he has to look through the production, it
22 Fintek telling me that they can't pick up. They only	22 might be in production. But we definitely offered
23 said we're delivering tomorrow, give us another day.	23 them a million times that we wanted to pick it up --
24 We're getting accounting and we're getting the wire	24 and not a million, a few times, with Arik on the phone
25 transfer. It was not in the conversations that money	25 and Arik can testify if you want to talk to Arik about

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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 it.	2 CERTIFICATE OF OATH
3 I asked him a few times, I want to pick it	3
4 up, and it was impossible, it was already distributed.	4 STATE OF NEW YORK)
5 If I want to fly all over the country to pick it up	ss.:
6 and I said, you know, I will do that also. Give me	5 COUNTY OF)
7 the places it was distributed and I can pick it up but	6
8 he didn't get back to me on that. He kept saying	7
9 "let's resolve it," "lets resolve it," and that's it.	8 I, HERSHY WEINER, hereby certify that I have
10 Q. Mr. Banon was involved in this discussion,	9 read the transcript of my testimony taken under oath;
11 correct, about LevMed?	10 that the transcript is a true and complete record of
12 A. I don't recollect exactly, but I assume so.	11 what was asked, answered, and said during the
13 MR. SPERBER: Okay. We'll see you	12 examination in the above matter, and that the answers
14 tomorrow.	13 in this transcript, as given by me, are true and
15 THE WITNESS: Thank you.	14 correct, except for the changes and/or corrections
16 (Whereupon, a discussion was held	15 indicated on the Errata Sheet attached hereto.
17 off the stenographic record.)	16
18 MR. SPERBER: We do want to read	17
19 and sign.	18
20 - - -	19
21 (Whereupon, the deposition was	20 HERSHY WEINER
22 adjourned at approximately 3:05 p.m.)	21
23	22 Subscribed and Sworn to
24	before me this day
25	23 of , .
	24 Notary Public
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1 (HERSHEY WEINER - VOL. 1, PM SESSION)	1 (HERSHEY WEINER - VOL. 1, PM SESSION)
2 C E R T I F I C A T E	2 EXAMINATION BEFORE TRIAL ERRATA SHEET
3	-----
4 STATE OF NEW YORK)	3 IN THE MATTER OF:
5 ss.:	4 UNITED STATES DISTRICT COURT
6 COUNTY OF SARATOGA)	4 FOR THE SOUTHERN DISTRICT OF NEW YORK
7	5 KITCHEN WINNERS NY INC., Plaintiff,
8 I, CHRISTINE GREENAWAY, a Registered Professional	6 v.
9 Reporter and Notary Public for the State of New York,	7 ROCK FINTEK LLC, Defendant. Claim Action No.
10 do hereby certify that the foregoing transcript to	8 22-cv-05276
11 which this Certificate is annexed, is a true and	9
12 correct transcript of my original stenographic notes.	ROCK FINTEK LLC, Counterclaim and
13	10 Third-Party Plaintiff
14 I further certify that I am neither an attorney	11 v.
15 nor counsel for, nor related to or employed by any	12 KITCHEN WINNERS NY INC., Counterclaim Defendant,
16 of the parties to the action in which this deposition	13 and
17 is taken; and, furthermore, that I am not a relative	14 ADORAMA INC., HERSHY WEINER, ET AL.
18 or employee of any attorney or counsel employed by	15 Third-Party Defendants.
19 the party hereto or financially interested in the	16 DECLARATION UNDER PENALTY OF PERJURY
20 action.	17 I declare under penalty of perjury that I have
21	18 read the entire transcript of my deposition taken in
22	19 the captioned matter or the same has been read to me
23	20 and the same is true and accurate, save and except
24	21 for changes and/or corrections, if any, as indicated
25	22 by me on the Errata Sheet hereof, with the
	23 understanding that I offer these changes as if still
	24 under oath.
	25 Signed on the ___ day of ___ 20___
	HERSHY WEINER

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2	ERRATA SHEET
3	I, _____, have read
4	the transcript of my testimony and would like
5	the following changes and the reason for such
6	changes, for example, "to correct stenographic
7	error" or "to clarify the record" or "to
8	conform with the facts."
9	Reason for change: _____
10	Page No. ____ Line No. ____ Change to: _____
11	Reason for change: _____
12	Page No. ____ Line No. ____ Change to: _____
13	Reason for change: _____
14	Page No. ____ Line No. ____ Change to: _____
15	Reason for change: _____
16	Page No. ____ Line No. ____ Change to: _____
17	Reason for change: _____
18	Page No. ____ Line No. ____ Change to: _____
19	Reason for change: _____
20	Page No. ____ Line No. ____ Change to: _____
21	Reason for change: _____
22	Page No. ____ Line No. ____ Change to: _____
23	Reason for change: _____
24	Page No. ____ Line No. ____ Change to: _____
25	SIGNATURE: _____ DATE: _____
	Page 191
1	(HERSHEY WEINER - VOL. 1, PM SESSION)
2	ERRATA SHEET CONTINUED
3	KITCHEN WINNERS v ROCK FINTEK, ET AL
4	Reason for change: _____
5	Page No. ____ Line No. ____ Change to: _____
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8	Reason for change: _____
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13	Page No. ____ Line No. ____ Change to: _____
14	Reason for change: _____
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23	Page No. ____ Line No. ____ Change to: _____
24	Reason for change: _____
25	SIGNATURE: _____ DATE: _____

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